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CONSIDERATIONS

ON THE

STATE OF IRELAND.

1778

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IRELAND.

DUBLIN:

WILLIAM WATSON.

M,DCC,LXXVIII.

INTRODUCTION.

IT is the common misfortune of all dependencies of great Empires, that ſuch of their citizens as are able to make their way to the metropolis, ſeldom return to their native province, or bring the knowledge or influence they have acquired to its ſervice. No country feels this misfortune more ſenſibly than Ireland; for notwithſtanding it is no more than

than a member of the Britiſh empire, its conſtitution partakes ſo much of a ſeparate ſtate, that almoſt the whole of its polity is left to the arrangement of its own domeſtic government; beſides the aptneſs of men, removed to a diſtance from the ſeat of empire, to be ſwayed by early prejudices or local attachments, their beſt calculated projects for promoting the particular intereſt of their country muſt ever run the hazard of being defeated, by claſhing with the particular intereſt of ſome other member, or interfering with the general

and

and combined intereſts of the whole.

To the want of a knowledge of the general and combined intereſt of the empire, in thoſe who have had the direction of the affairs in Ireland ſince the Revolution, may in a great meaſure be aſcribed the ſlow progreſs Ireland has made in population, cultivation, commerce, and wealth, compared with other parts of the Britiſh dominions.

It is not my preſent purpoſe to point out inſtances in proof of

of this aſſertion, but there is one ſo ſtriking and obvious, that I cannot help mentioning it.

In the 19th year of the reign of James the Iſt. the whole number of white inhabitants in what was then called Virginia, which comprehended the greateſt part of the Britiſh territories in North America, amounted to no more than 4000, at which time Ireland contained at leaſt a million; yet, with ſuch a prodigious ſtart, we have ſeen Ireland, in a little more than a century, overtaken by America, and in ſome particulars

ticulars ſurpaſſed; for it is beyond controverſy, that until her late imprudence in exciting the jealouſy, and provoking the reſentment of Great Britain, Britiſh America was nearly as populous as Ireland; her people were better fed, better clothed, better lodged, and more happy; ſhe had more ſhipping, more trade, and more credit; and during the whole time laboured under more reſtraints from Engliſh laws than Ireland did, with a ſoil much leſs fertile, and a climate neither ſo temperate or ſalutary.

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The author of the following ſheets is a native of Ireland; and, altho' he has been many years engaged in the public ſervice in other parts of the Britiſh dominions, he has not forgot what he owes to the country from whence he derived his birth, and where he received thoſe principles that have ſupported him at all times, and carried him through a variety of ſituations, without reproach; and he thinks he cannot better diſcharge his duty to his parent country, and to the empire at large, than by bringing to the public ſtock of

Ireland

Ireland whatever knowledge the many means of information he has had may have enabled him to acquire.

His firſt object is to endeavour to lead his countrymen to reflect upon their own condition as a people, to inveſtigate the conſtitution of their government and the nature of their connexion with England; and in doing this, he intreats them to diveſt themſelves as much as poſſible of their early prejudices; to enquire before they form their opinion, and not to take that upon truſt from others, the truth of which

which they ought to have examined themſelves.

What is now laid before them will, he hopes, call up their attention, and turn their thoughts into a right channel. He intends to wait its effects, before he proceeds to offer any propoſitions, reſpecting either the external connexions or internal polity of Ireland; but he pledges himſelf to his countrymen, to bring forward, in due time, ſome of importance in each claſs.

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THE end and purpoſe of all government being the advantage, ſafety, and happineſs of the Community, the general diſcontent of the people is at all times an argument of a defective conſtitution, or of miſconduct in thoſe to whom the Adminiſtration is committed: when the latter is the caſe, a change of miniſters will probably prove a remedy; but if the miſchief lies deeper, and

has its ſource in the conſtitution itſelf, a change of miniſters will only ſerve to increaſe the public ill humour, and by exciting hopes which cannot be gratified, add the reſentment of diſappointment to the anguiſh of former grievances. It ſeems therefore highly proper to enquire into the nature of our public evils, and to trace them to their fountain before any method of redreſſing them is propounded; for, until we have a fair view of the diſeaſe, we ſhall not be able to judge of the probable effects of the regimen that may be offered for our relief.

Without going back further than our memory will ſerve us, we ſhall find ſuch diverſity in the characters of our ſeveral chief governors, and variety in the meaſures of their adminiſtra-

miniſtrations, as ſtrongly to incline us to ſuppoſe that they would not *all* have failed as they did in giving content to the people, were it in the power of any chief governor to give it. We execrate the ſubtle Lord Carteret for aiming to deprive us of the advantages of biennial ſeſſions of parliament; and we are not better pleaſed with the undeſigning Lord Townſhend who has ſecured and improved that priviledge by an octennial election; we accuſe Lord Cheſterfield of ſapping the foundation of the Iriſh intereſt in parliament; and we cenſure Lord Harrington for putting himſelf into the hands of the ariſtocracy, and conſenting to their violent and arbitrary attempts upon the freedom of our elections. The Duke of Dorſet is never to be forgiven

for opening a new channel of circulation for the king's favours, and it ſeems to be the great grievance of the preſent hour (*a*) that the hands through which they then paſſed are no longer employed in diſtributing them. The Duke of Devonſhire is blamed for effecting an union of the contending parties; and that he governed by a faction, is one of the crimes of the Duke of Bedford, and whilſt the unaccommodating pride of the latter nobleman is recollected with diſguſt, the facility and politeneſs of Lord Halifax is branded with the epithets of falſhood and inſincerity. In ſhort, ſplendor and magnificence is uſeleſs profuſion in Lord Northumberland, and an attention to domeſtic

œconomy

(*a*) This paper was written in the year 1772.

œconomy miſerable parſimony in Lord Hertford. A large redundance of public treaſure had well nigh undone the kingdom in 1753, and an increaſe of its domeſtic expences have brought it to the verge of bankruptcy in 1772. It is needleſs for me to multiply inſtances of our diſcontent, or to expoſe the contrariety of the cauſes we aſſign for them, eſpecially as it is not my purpoſe either to vindicate the characters or conduct of our Viceroys, or to revive the public clamour againſt them; all I mean to ſhew is, that the people have been uneaſy under all adminiſtrations, and that, judging of the future by the paſt, there is no likelihood of their being content with any chief Governor, until the conſtitution of Ireland receives ſome improvement. This is a point of which I wiſh my countrymen

trymen to be fully convinced; for ſo long as they entertain a hope of ſeeing an adminiſtration to their mind, they will be apt to join in the cry raiſed by the factious againſt every chief governor, vainly flattering themſelves, by his removal, to make way for their favourite; and thus, inſtead of lending their force to remove the cauſe, they will continue to be, as they have been, the dupes of deſigning and artful leaders, exclaiming againſt its neceſſary effects, without any public principle for the baſis of their opinion, or any conſtitutional rule for the direction of their conduct. Let me then intreat my countrymen to conſider this matter with ſerious attention, and then fairly ſay what are the public acts they wiſh to ſee take effect, and what are the meaſures they wiſh to ſee purſued by a chief governor,

governor, and I will appeal to their candour for confeſſing that neither thoſe acts or thoſe meaſures are to be expected from any chief governor ſo long as you conſider yourſelves, and are conſidered by England as a ſeparate kingdom and having ſeparate intereſts; can you hope to be deemed a dependence of the Engliſh crown only for the purpoſe of being protected by the Engliſh fleets and armies, and enjoying the advantages of the treaties and alliances procured by England, and be conſidered by her as an independent people in all other reſpects? Such notions are too abſurd to be entertained by ſo ſenſible a people, and therefore I flatter myſelf you will give me your candid and ſerious attention, whilſt I endeavour to trace the cauſes of your uneaſineſs, and point out the means of their removal.

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To have the clearer view of this very important ſubject, it will be neceſſary to go back to the origin of the connection between England and Ireland, and to enquire into the motives which induced it, and the principles upon which it was founded.

From the imperfect accounts we have of the ſtate of Ireland antecedent to the arrival of Henry the ſecond, compared with what we know to have been the ſtate of England at the ſame period, it is eaſy to prove that the introduction of the laws and cuſtoms of England into Ireland by that monarch was a conſiderable boon to the people of Ireland. The tenure by which the inhabitants hold their lands is in all countries a fair teſt of the freedom or deſpotiſm of the government, for where-ever the people have

have a right to be conſulted upon acts of ſtate, they never fail to uſe that right to ſecure to themſelves a fixed property in their lands, which, next to the liberty of their perſons, is deemed the moſt important conſideration; and indeed there is good reaſon it ſhould be ſo conſidered, for perſonal freedom in a country where there is no certain property is no otherways beneficial than as it enables the inhabitants to remove out of it, and ſeek their fortunes under a better conſtitution of government.

Nothing could be more wretched than the ancient condition of the people of Ireland appears to have been in reſpect to property in their lands; poſſeſſion was the only rule of right among the inhabitants, and as by the cuſtom of taneſtry, the captain,

tain, or head of each ſept, was elective, it is eaſy to ſuppoſe, that upon the ſucceſſion of every new captain, room was to be made for the accommodation of his friends, by the removal of thoſe of his predeceſſor or opponent; and as the ſame cuſtom prevailed in the ſucceſſion of their princes or kings, the continual wars, rapines, murders, and deſolation, which we are told of, appear to be no more than the neceſſary effects of the barbariſm of the conſtitution; what a bleſſing then was the introduction of feudal tenures to this people! and therefore it is not ſurpriſing that the great men of the iſland ſo univerſally and immediately embraced the offers of Henry, and relinquiſhing their former titles, conſented to hold their principalities and domains of him as their feudal Lord; for by ſo doing they acquired for their children

children a right of inheritance, and continued their own poſſeſſions in their families; nor were their tenants leſs benefited by the change, as they were of courſe to hold their farms of their lords upon the like conditions; and of this they were made more ſecure, as well as in their perſonal eſtates and liberties, by the abolition of the Brehon law, and the introduction of the laws and cuſtoms of England in its room. Few of the laws of England, more than thoſe of Ireland, were at this time written; but as in England all criminal, and the greateſt part of civil cauſes were tried by juries of the vicinity, a perpetual memory of what was law was kept up among the people, and the rule which governed in a former caſe became a direction in all ſucceeding ones; and as all decrees and ſentences were recorded in the county

or manor rolls, a fixed and regular ſyſtem of juriſprudence in courſe of time took effect in each county and manor; in ſome inſtances, indeed, different from that which prevailed in others, but in nothing of great importance, as the ſuperior courts which attended the king, and the itinerant judges had the control over all inferior courts, and we may well ſuppoſe took care to eſtabliſh, as near as could be, an uniformity of proceeding among them. The Brehon law was on the contrary the moſt deſpotic and arbitrary that can be imagined; every captain or chief of a ſept appointed a brehon or judge to decide all cauſes, criminal and civil, among the people of his tribe. Cauſes between the people and the chief, were ſeldom brought, or if they were, it is

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not difficult to gueſs in whoſe favour they were decided; but the lord was not content to benefit by the deciſions of the brehon in his own cauſes only, he was equally careful that ſome profit ſhould accrue to him out of the ſuits of his tenants. Hence all rapes, felonies, murders, and other crimes, were made commutable for money, and puniſhed only by fines to the lord, and ſome compenſation to the party injured. As the brehon held his office at the good pleaſure of the captain, and as every ſucceeding captain appointed his own brehon, we may well ſuppoſe that the intereſts of the party in poſſeſſion were leaned to by the brehon, and indeed that his deciſions were made the means of recompencing the ſervices of the friends of the preſent chief at the expence of thoſe of his predeceſſors. Haſty and unjuſt

unjuſt, therefore, are the cenſures of thoſe zealous champions of what they think the privileges of Ireland, upon the want of ſenſe and ſpirit in the natives to defend their own laws and poſſeſſions, and in meanly ſubmitting both to the will of Henry, conſenting to hold their lands of the crown of England, and to be governed by the Engliſh laws; for in fact they acted in this reſpect with more wiſdom than we find any other people ever did in the like circumſtances. They changed a mode of government and laws replete with tyranny and oppreſſion, and productive of every enormity, for a conſtitution framed upon principles of equal right, and for laws which gave them ſecurity in their perſons, and property in their poſſeſſions; but this was not all, for inſtead of ſubmitting, as it is weakly and falſly alledged

ledged, to the condition of a people conquered by an invader, they ſtipulated for a common right with their invaders, not only to all the privileges they ſhould enjoy in Ireland, but to a community of rights and privileges with them in their own country England. Where, let me aſk theſe traducers of our anceſtors, ſhall we find in modern hiſtory a conquered people admitted to a community of rights and privileges with their conquerors? or, which of the many nations overcome by the Romans ſtipulated with that proud people, in the zenith of their power, for all the privileges of Roman citizens? Yet this the people of Ireland did, with that great and mighty monarch Henry the ſecond of England; they became incorporated with the Engliſh, and were made one people with them, by an union, the moſt entire and perfect that

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can be conceived. Their king was the ſame, they held their lands by the ſame tenure, their laws were not ſimilar but the ſame, their legiſlator was the ſame, their religion was the ſame; how happy would it have been for the people of both iſlands, but eſpecially for thoſe of Ireland, had this union proved as laſting as it was complete. What horrid ſcenes of wretchedneſs and miſery would it have prevented! Rebellions, maſſacres, and devaſtations, would not have then filled every page of our ſhocking hiſtory, nor would the poverty of the bulk of our people have been, as it now is, our reproach among civilized nations; but on the contrary, participating with our brethren in England in every benefit of commerce, profiting by their wealth and ſkill in manufactures for the perfecting our own, deriving equal advantages with them from the increaſe

of

of the colonies, and beneficial treaties with foreign ſtates; peace and plenty muſt have taken place of poverty and deſolation, and the happineſs and proſperity of Ireland would have been the envy of all nations. But Providence, which frequently uſes the wickedneſs of one man as the inſtrument to puniſh the crimes of others, by permitting that monſter of bigotry and deceit, Louis the VIIth of France, to call Henry into Normandy before he had ſeen his new conſtitution take effect, left the miſerable natives to ſuffer by their new rulers, and each other for their former enormities.

When a new mode of government and new laws were to be introduced, it was highly requiſite to appoint magiſtrates, well ſkilled in both, to adminiſter them to the people; but this Henry had not time to do, and there-

fore it fell of courſe to the brehons to pronounce judgment, by laws which they were wholly unacquainted with, and to eſtabliſh cuſtoms which they had never heard of. No proviſion ſeems to have been made for the taniſt, or elected ſucceſſor to the chief of each ſept, and as each captain or head was now become a baron, and his barony deſcendable to his ſon, the taniſt was barred of his ſucceſſion, and without any compenſation. It is unneceſſary to look for other ſources of miſchief; theſe two were more than ſufficient to deprive the people of Ireland of all the advantages the new conſtitution held out to them, and even to render it more odious in their eyes than their own; for as the taniſt would naturally claim the ſucceſſion by the old law, and the heir of his predeceſſor would endeavour to retain it under the ſanction of the new tenure; and Henry the lord

of

of the fief being abſent, a civil war in every ſept was the neceſſary conſequence of the death of the chief. The tyranny and oppreſſion of the chief, which the people hoped to have ſeen reſtrained by the Engliſh laws, were, on the contrary, increaſed under pretence of them; for it was eaſy for him to direct his brehon to give a colour to the moſt iniquitous deciſion, by declaring it to be according to the Engliſh laws; and it was in his own power to ſeize upon the poſſeſſions of any of his ſept under pretence of their being forfeited to him by theſe unknown laws. Indeed when John became lord of Ireland, we find him endeavouring to remedy theſe evils by renewing the charter of Henry, and carrying over from England a number of learned judges, and appointing them to diſpenſe the Engliſh laws to the people; his own troubles, however,

ſoon took off his attention to the affairs of Ireland; and it was the misfortune of this country, that thoſe to whom its government was committed, in theſe early times, inſtead of labouring to draw the band of union ſtill cloſer between England and Ireland, took every poſſible meaſure for ſeparating the native Iriſh from the Engliſh, and their deſcendants who were ſettled here. It was their villainous policy to excite quarrels among the Iriſh chiefs, and then declare them rebels, and to ſeize upon their countries as forfeited by their treaſon; and finding the brehon laws more convenient to their purpoſes of tyranny and oppreſſion, they denied their wretched tenants the benefit of the laws of England, and forced them to reſort to their brehon. In public and notorious violation of the great charter of Henry, confirmed by John, they ſet up a pale as a boundary

dary between the poſſeſſions of the Engliſh and Iriſh inhabitants, and confined the juriſdiction of the Engliſh laws within the limits of that pale; nay, what was ſtill more unjuſt, they denied the benefit of thoſe laws to ſuch of the deſcendants of the native Iriſh as dwelt within the pale. It is with pain I relate theſe iniquities of my countrymen; for it was *our* anceſtors who practiſed them on each other. The deſcendants of the Laceys, the Fitzgeralds, the Cavennaghs, the Courcys, and many more who may find themſelves injured by the recital of the injuſtice done to thoſe they take to have been their anceſtors, by thoſe they call Engliſh, ought to change the ſubject of their complaint, and lament that *their* anceſtors were capable of ſuch cruelty and injuſtice to *their* countrymen; neither the government or people of England were inſtrumental

mental in this wrong, any further than by neglecting to take proper meaſures for preventing it; and the unſettled ſtate of thoſe times, the continual diſputes about the ſucceſſion, and the wars on account of the territories in France, furniſh excuſes for that neglect. Equally malicious and abſurd are the endeavours of thoſe, who by an exaggerated account of theſe tranſactions, labour to excite in the preſent inhabitants of Ireland, reſentment and ill will againſt their fellow ſubjects in England, as if it were the anceſtors of the preſent Engliſh who inflicted theſe hardſhips upon the anceſtors of the preſent Iriſh. No, my countrymen, let us not be deceived by ſuch incendiaries; they were equally our own anceſtors who perpetrated the cruelties with thoſe who ſuffered them. Even ſuch, whoſe names denote them to be of the native ſtock which firſt peopled this iſland,

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ought to be cautious how they indulge their feelings againſt the cruel invaders; for their names are no ſecurity that their anceſtors were not among the oppreſſors, as it became a practice with many of the deſcendants of the Engliſh, as Spencer informs us, to change their names, or alter them to Iriſh, in order to give a better colour to their refuſing the benefits of the Engliſh laws to their tenants, and obliging them to ſubmit to thoſe called the brehon; neither have we better grounds to look upon all thoſe whoſe names are not of Iriſh origin, as deſcendants of the invaders, for we find an act of the Iriſh parliament, held at Trim by the Earl of Deſmond, in the year 1465, the 5th of Edward the IVth, requiring "every Iriſhman that dwelt in the "counties of Meath, Unil, and Kil-"dare, to take to him an Engliſh "ſurname of one town, as Sutton,

"Cheſter,

" Cheſter, Trim, Skryne, Cork, Kin-
" ſale; or colour, as White, Black,
" Brown; or art or ſcience, as Smith
" or Carpenter; or office, as Cook,
" Butler." And here it is proper I ſhould take notice, that the chief of the hardſhips inflicted on the native Iriſh, and thoſe which we are the moſt ſhocked at were the neceſſary conſequences of the revival of the brehon law, for by that law, all crimes, as I have before obſerved, were commutable for money; and, therefore, when we find a price was ſet upon the head of a native Iriſhman, and his murderer was acquitted upon the payment of that ſum, we ought not to conſider it as a ſingle act of tyranny or cruelty, but impute it to its ſource, the refuſal of the benefit of the Engliſh laws, and the revival of that of the brehon; and it is ſomewhat extraordinary, that the violent partizans of

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what they call the liberties of Ireland, who declame ſo loudly upon theſe barbarous doings, in the ſame breath impeach the authority of the Engliſh laws in Ireland, which alone made them criminal, and thereby render theſe very proceedings legal, if not juſtifiable. That the government in England was far from countenancing theſe proceedings of the adminiſtration in Ireland is evident, from the act or letters patent of the 17th of Edward the firſt, dated at Nottingham, in the year 1288, two and twenty years before the date of the firſt act paſſed by an Iriſh parliament, as printed in the collection of the Iriſh ſtatutes. The preamble to this act declares it to be, *for the amendment of the government of our realm of Ireland, and for the peace and tranquillity of our people of the ſame land*; and, indeed, the enacting clauſes very well

correſpond with the intention expreſſed in the preamble, for they prohibit the juſtice and all other officers of the crown from purchaſing lands within their reſpective bailiwicks without ſpecial licence from the king. It commands that they ſhould not take victuals, or any other thing, of perſons againſt their will; that they ſhould not arreſt ſhips or goods of ſtrangers or ſubjects; but, *that trade ſhould be free and unreſtrained between England, Wales, and Ireland.* And to correct this abuſe of pardoning or commuting for murder, the king reſerves to himſelf the power of pardoning in all ſuch caſes, and reſtrains his juſtice or chancellor from exerciſing that prerogative in future.

I am not writing the hiſtory of Ireland, altho' it is highly fit it ſhould be

be done by ſome one (*b*); for there is no civilized people upon earth who know ſo little of their own hiſtory or affairs as we of Ireland do of ours; but I conceive it to be a good ſervice to the public, to remove the prejudices which ignorance of the truth has laid us open to, and which prevail among us, even to this day, in a degree extremely injurious to the welfare of our country, and highly diſgraceful to us, as an enlightened people; for not content with the ſingle abſurdity of ſuppoſing that no intermixture has happened among the inhabitants of ſo ſmall an iſland in ſix centuries; a new mark of diſtinction has been borrowed from religion to ſupply that of deſcent, which

(*b*) This was written before Dr. Leland's hiſtory was publiſhed. I am ſorry its publication has not given me occaſion to alter what I had written.

which might otherwiſe have been worn out in ſo many ages; and altho' the reformation did not take place in England for 350 years after Henry's invaſion of Ireland, yet the proteſtants of Ireland are weak enough to ſtigmatize the whole body of the Roman Catholics, as deſcendant of the antient Iriſh, and as ſuch, are unwilling to allow them a community of rights and privileges with themſelves: but that the antient inhabitants of this iſland were equally intitled to all the laws, rights, and privileges of Engliſhmen with the Engliſh adventureres, has been, I perſuade myſelf, ſufficiently proved; and altho' the charters of Henry the ſecond, and of his ſon John, granting thoſe laws, rights, and privileges to the people of Ireland, had not the expreſs conſent or concurrence of the Engliſh barons or parliament; yet I am bold to affirm that ſuch conſent or

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concurrence was not neceſſary, and the Engliſh ſtatutes themſelves afford abundant proofs that the parliament of England acquieſced in theſe acts of their kings, and conſidered the people of Ireland for 300 years afterwards as Engliſhmen, and intitled to a community with themſelves in all their laws, rights, and privileges. It is difficult to avoid carrying with us our ideas of things as they appear at preſent, into the diſcuſſion of the practice that prevailed in antient times; and as we now ſee parliament the ſource of legiſlation, and veſted with high, perhaps boundleſs, juriſdiction, we are apt to conceive that ſuch has always been the caſe, in ſome degree at leaſt. Laws too are now generally made to reſtrain the people, and give power to the officers of the crown; and parliament, inſtead of petitioning the king for privileges, is continually authoriſing the crown to

abridge

abridge the people's liberties in ſome inſtance or other; but the truth is, the king and the parliament have changed places in latter times, and the fundamental maxims of government are entirely reverſed. The doctrine, in former ages was, that all power was in the king; the doctrine now is, that all power is derived from the people. Every liegeman was then in the power of the prince, and ſubject to his will, except where he could ſhew a grant or charter of the crown in his behalf. Now the king has no power over any man unleſs there be ſome law to give it to him. Inſtead of being aſſembled to ſignify their *acceptance* of the grace of the crown in the grant of a charter or law, parliament now meets of right, *propounds* and enacts laws, and preſents them to the crown for aſſent; and woe be to the adviſers

of

of the prince, if that aſſent be with-held. The expreſſions *legiſlative juriſdiction of parliament*, which are applicable to the preſent ſtate of things, have no meaning when applied to former times. Parliament was then nothing more than an aſſembly of ſuch of thoſe who held lands in capite of the crown, as the king thought fit to call together by his writ, in order to *accept* on the part of the whole people, ſuch laws or charters as the king might be pleaſed to *grant*, and in return, to ſignify the peoples *conſent* to the king's levying, for his own uſe, a certain ſum of money; how then was Henry obliged to have the conſent of the Engliſh parliament to his granting to the people of Ireland all the laws which himſelf or his predeceſſors had granted to the people of England? Neither could he be reſtrained by any law or rule then in being,

ing, from calling, by his writ, certain of his Iriſh tenants in capite, to the aſſembly of his tenants, or parliament, in England, and receiving their *acceptance* of his laws in common with his Engliſh tenants, and their *conſent* to the ſame ſubſidies alſo; but whether the king thought fit to call any of his Iriſh tenants to theſe aſſemblies or not, the people of Ireland were equally entitled, with the people of England, to the benefit of the laws *accepted* by ſuch aſſemblies; or as the modern moſt improper phraſe is, were equally *bound* by them: for the king was in no caſe obliged to ſummon *all* his tenants to ſuch aſſemblies; and as the ſtates and people of Ireland had adopted the laws and government of England, they were thenceforward included in all the tranſactions of thoſe aſſemblies; for it was the law of England that thoſe aſſemblies ſhould *conſent* for the whole people,

ple, and we find the fact correſponds with this doctrine; for it appears manifeſt from the Engliſh ſtatutes (which are always the beſt and ſureſt guides to the national opinions,) down to the 1ſt of Henry the Vth, the year 1413, that this iſland was deemed a part of England, and it's inhabitants in all reſpects Engliſhmen. In all the acts for regulating trade, England, Ireland and Wales are coupled together, and the liberties and prohibitions extended to all alike. By the ſtatute of the 11th of Edward the IIId. neither man or woman in England, Ireland, or Wales were to wear cloth, but of the manufacture of England, Ireland, or Wales, and of ſuch parts of Scotland as were then in the King's power; no foreign cloths might be brought into any of thoſe countries; none under a certain degree might wear furs; all foreign clothworkers might come into

any of thoſe lands with ſafety, and have franchiſes granted them. By the 8th of Edward the III. wines of Gaſcoigny imported into England, Ireland, or Wales, are directed to be guaged. All people of England, Ireland, and Wales, that are not artificers, may paſs into Gaſcoigny in virtue of the 43d of Edward the IIId. and purchaſe wines, provided they import them into England, Ireland, or Wales. The ſtaple of wool, leather, fells, and lead, by the 27th of Edward the IIId. is appointed for England at Newcaſtle and nine other towns, at Carmarthen for Wales, and at Dublin, Waterford, Cork, and Drogheda, for Ireland; and all the wool, leather, fells, and lead to be exported out of any of thoſe countries, are directed to be firſt carried to a ſtaple town in the reſpective countries, and there ſold to foreign merchants for gold or ſilver, but not

for

for foreign merchandiſe. Merchants of Ireland or Wales, by the 17th of Edward the IIId. are allowed to bring their merchandiſe to the ſtaples in England, and ſell them there without paying any but the Iriſh or Welch cuſtoms; becauſe, ſays the ſtatute, "Foreigners do not ſo generally go to "purchaſe at the Iriſh and Welch "ſtaples as they do to thoſe of England." The 34th of Edward the IIId. accords that all the merchants, as well Aliens as Denizens, may come into Ireland with their merchandiſes, and from thence freely to return with their merchandiſes and victuals, without fine or ranſom to be taken of them, ſaving always the King his antient cuſtoms and other duties. By the next chapter of the ſame act, it is enacted "That the "people of England, as well religious "as other, which have their heritage "and poſſeſſions in Ireland, may bring

" their corn, beaſts, and victuals, to " the ſaid land of Ireland, and from " thence to re-carry their goods and " merchandiſes into England *freely*, " without impeachment, paying their " cuſtoms and devoirs to the king." By the 43d of the ſame Edward, the wool ſtaple at Calais is taken away, but the former acts, appointing ſtaples in England, Ireland, and Wales, are confirmed.

The act of the 5th of Richard the IId. which is the firſt Eſſay of the Engliſh parliament towards a navigation act, prohibits the king's ſubjects from carrying forth or bringing in any merchandiſes, but only in ſhips of *the king's allegiance*. Neither Ireland or Wales are mentioned in any of the enacting clauſes or chapters of the 14th of that king, but from the preamble it is evident that the regulations then made were

were to take place in thoſe countries, as well as in England; the words of the preamble are, " for the relief and " increaſe of the common profit of the " realm of England and *of the Lands* " *of Wales and Ireland*, which have " been in divers manners greatly hin- " dered in times paſt, our lord the " king, &c." From henceforward we find no mention of Ireland in any ſtatute, until we come to the 8th chapter of Henry the Vth. ſo that from the acts I have quoted, it is moſt evident that during this long period of near three centuries, and in the courſe of many reigns, England and Ireland were deemed by the king and parliament and people of England to be incorporated, and the inhabitants of the two iſlands to be one people, and equally intitled to the ſame immunities, and ſubject to the ſame reſtraints. Nor are there the ſmalleſt grounds to ſuppoſe that

that there was any exception of the deſcendants of the native Iriſh from this community, and that only the Engliſh adventurers and their deſcendants were included in it; for, on the contrary, all the terms which might lead to ſuch ideas of diſtinction are carefully avoided, as the ſtatutes never ſpeak of *Iriſhmen*, but people of *Ireland*, which certainly includes the whole inhabitants. How wicked and ill-founded then, my countrymen, are thoſe cruel aſperſions upon the Engliſh government, which our hot-headed and ignorant zealots have thrown out, as if it was *they* who out-lawed the natives, and excluded them from the common rights of ſubjects, and even of men? and how ought we to deteſt ſuch baſe incendiaries, for endeavouring to create in us a jealouſy and animoſity againſt our Engliſh brethren, and to make the Engliſh government

odious

odious to us by ſuch notorious falſhoods and atrocious calumnies? you cannot poſſibly refuſe to give credit to the evidence I have laid before you, and if you do not, it will be equally impoſſible for you to refuſe your aſſent to this conſequence which is ſo clearly deducible from it; namely, that during the whole period I have run over, it appears to have been the uniform purpoſe of the laws and government of England to aboliſh all diſtinctions among the inhabitants of Ireland, and to conſider all as enjoying the rights and privileges of Engliſhmen. Who then, you will aſk, if not the Engliſh government, created and foſtered thoſe cruel and unjuſt diſtinctions between one part of the inhabitants and the other? I anſwer freely, Iriſhmen; perhaps the deſcendants of Engliſhmen, Welchmen, Scotchmen, or Danes, but more eſpecially our Iriſh rulers. Upon

thoſe,

thoſe, and upon thoſe only, is to be charged all the miſery, wretchedneſs, and deſtructions that have befallen us. Before we had a parliament, we ſee by the act of the 17th of Edward Iſt. that the conduct of our great men in power did not eſcape the notice of the Engliſh government, and that a wiſe and effectual meaſure was taken to put a ſtop to their oppreſſions upon our trade and exactions of office, as well as to deprive them of the power of making diſtinctions in caſes of murder and felonies between one part of the people and the other, and pardoning or puniſhing according to that wicked rule they had made of allowing the Engliſh laws to the deſcendants of Engliſh only, and allowing the deſcendants of the native Iriſh no other than the brehon law. But when a parliament was once held in Ireland, the Engliſh government committed the care of the inhabitants

inhabitants to it, and from thenceforth the Engliſh parliament did not once interfere with its domeſtic government or intermeddle in its affairs. How well the Iriſh parliament and thoſe in power here purſued the beneficent and wiſe purpoſes of the Engliſh government, may eaſily be collected from the terms they made uſe of to diſtinguiſh the deſcendants of the native Iriſh from thoſe they ſuppoſed to be deſcendants of the Engliſh adventurers, 170 years after the incorporation of the two nations by Henry the ſecond, denominating the one *Iriſh enemies*, and the others *Engliſhmen*. Of this and of the cruel, violent, and illegal methods of proceeding with thoſe unhappy men, whom they were pleaſed to confound under the general name of *Iriſh enemies*, the acts of the Iriſh parliament in the 25th of Henry the VIth. chapt. the

2d

2d and 3d, which I have copied in the margin (*c*) are ſhocking proofs.

There

(*c*) The 25th Henry the VIth. chap. 4th. enacts "that he that will be taken for an Engliſhman ſhall not uſe a beard upon his upper-lip alone. The offender ſhall be taken as an Iriſh *enemy*.

"For that now there is no diverſity in any betwixt the Engliſh marchours and the Iriſh enemies, and ſo by colour of the Engliſh marchours the Iriſh enemies do come from day to day to other into the Engliſh counties as Engliſh marchours, and do rob and kill by the highways, and deſtroy the common people by lodging upon them in the nights, and alſo do kill the huſbands in the nights, and do take their goods to the Iriſhmen; wherefore it is ordained and agreed, that no manner man that will be taken for an Engliſhman, ſhall have no beard above his mouth; that is to ſay, that he have no hairs upon his upper-lip, ſo that the ſaid lip be once at leaſt ſhaven every fortnight, or of equal growth with the nether lip. And if any man be found amongſt the Engliſh contrary hereunto, that then it ſhall be lawful to every man

to

There is good ground to believe, from the ſtyle and tenor of the Iriſh acts

to take them and their goods as Iriſh enemies, and to ranſom them as Iriſh enemies."

CHAP. V.

" Alſo for that divers Iriſh enemies be many times received by lieutenants and juſtices of this land to become liege men, and thereto are ſworn to be loyal lieges during their lives; and after many times they do not perimpliſh the ſame, but do rob, burn, and deſtroy the king's liege people, and the ſame liege people, for fear to be impeached, dare not kill nor impriſon the ſaid enemies, nor take their goods nor chattles, whereby the ſaid liege people do take great hurt and hindrance. It is ordained and eſtabliſhed, that if any ſuch Iriſh enemies, ſo received to the legiance of our ſovereign lord, be found with any ſuch offence aforeſaid, that it ſhall be lawful to every liege man that may meet with them to do with the ſaid Iriſhmen, ſo received to the legiance aforeſaid, and to their goods and chattels, as to a man that never was become liege, without any impeachment of the law, notwithſtanding any ſtatute."

The

acts of theſe times, that they were paſſed by the deputy or lieutenant, without having been tranſmitted to England, or approved by the king; for it is not to be ſuppoſed that the Engliſh government would have conſented to acts ſo directly contrary to the laws of England, or have ſuffered it to be declared by ſtatute, as is done in that of 35th of Henry the VIth. chapter 3d. *that there were ſundry perſons in Ireland who were not amenable to the common law*; and indeed we find it is expreſsly declared in the preamble of the 11th of Elizabeth for confirming Poyning's act, that when liberty was given to the governors under her Majeſty's

The 5th of Edward the IVth. chap. 2d. "An act that it ſhall be lawful to kill any that is found robbing by day or night, or going or coming to rob or ſteal, having no faithful man of good name or fame in their company in Engliſh apparel."

jeſty's progenitors to call parliaments at their pleaſure, acts paſſed as well to *the diſhonour of the prince as to the hinderance of their ſubjects.* It was the *abuſe* then of this liberty of making laws by the Iriſh parliament and chief governors that called for that now obnoxious and bewailed act of the 10th of Henry the 7th, commonly called Poyning's act, which obliges the lieutenant, or deputy, and privy council of Ireland to repreſent to the king the neceſſity or expediency of holding a ſeſſion of parliament; and if we diſpaſſionately examine the ſeveral acts which I have quoted as paſſed by Iriſh parliaments, antecedent to this king's reign, and compare them with thoſe which followed this reſtriction, I am confident it will appear that this reſtraint was neceſſary for the common good of the people of Ireland, and that it has been productive of beneficial

cial conſequences to them. Indeed the ſeveral laws enacted in this reign ſhew an attention to the quiet and good government of Ireland, which is not diſcoverable in the Iriſh ſtatutes of any preceding reign. The act *that no citizen receive livery or wages of any lord or gentleman*, was certainly highly neceſſary for the peace and proſperity of the city of Dublin, and the other cities and towns, if what we are told in the preamble be true, " that it was " uſual for the citizens to be retained " by certain lords and gentlemen, con- " trary to their own laws and cuſtoms; " whereas they ſhould take part with " no man but only the part of their " ſovereign lord and his lieutenant for " the time being, and to ſee their ſaid " cities and towns ſurely kept under " due order and obeyance, the which " retainders, partaking, and diviſion have

" been

" been a great cauſe of all the trouble " within the ſaid land."

The acts " *that no perſon take any* " *money or amends for the death or mur-* " *der of his friend or kinſman other* " *than the king's laws will*; that *no per-* " *ſon ſtir any Iriſhry to make war*; that " *no peace* in *war be made with any man* " *without licence of the governor*; that " *for extirpation of a new manner of* " *coin and livery*; *for aboliſhing the* " *words Cramabo and Butterabo*, and " *that whereby murder of malice pro-* " *penſe is made treaſon*;" all ſpeak ſufficiently for themſelves; but there is ſomething ſo expreſſive of the deſire of government to reſtrain the violences of the great men, to protect the lower claſs, and do equal juſtice to all in the laſt mentioned act, that I cannot help reciting it. " Foraſmuch as there hath " been *univerſal murder* by malice pro-

" penſe,

" penſe, uſed and had in this land by " divers perſons contrary to the laws of " Almighty God and the king, *with-* " *out any fear or due puniſhment had in* " *that behalf*, be it enacted, &c. That " if any perſon or perſons *whatſoever* " *eſtate, degree, or condition, he or they* " *be of*, of malice propenſe, do ſlee or " murder, or of the ſaid malice pro- " voke, ſtir, or procure any other per- " ſon or perſons to ſlee or murder *any* " *of the king's ſubjects* within this land " of Ireland, be deemed traitor attain- " ted of haute treaſon, *likewiſe as it* " *ſhould extend to our ſaid ſovereign* " *lord*'s perſon, or to his royal ma- " jeſty."

The Engliſh act of the firſt of Henry Vth. by which I limited my aſſertion that the iſland and people of Ireland were, by the king and parliament of England deemed incorporated with England, marks no line of partition between

between the two iſlands, neither does it make any diſcrimination of the rights and privileges of the inhabitants, but inaſmuch as it fixes an opprobrious ſtigma upon the natives of Ireland, and reſtrains them of that free intercourſe with England which the incorporation of the two iſlands intitled them to; it muſt be allowed to indicate in the parliament of England an idea of diſtinction between the natives of Ireland and the natives of England: the like obſervation may be made upon the firſt of Henry VIth. chap. 3d, and the ſecond Henry VIth. chap. 8th, which are properly amendments of the former act of Henry Vth. but altho' theſe acts unqueſtionably ſet up a diſtinction between the natives of the two iſlands, yet they do not appear to have been followed by any others of a ſimilar nature; nor indeed is there to

be found upon the ſtatute roll down to the 15th of Charles the IId. a ſingle act for laying any partial reſtraint upon the trade or manufactures of Ireland, or impoſing any duty upon the manufactures, products, or merchandiſe of Ireland, when imported into England. On the contrary, all the laws reſpecting trade paſſed in the ſeveral reigns antecedent to the reſtoration, convey to the people of Ireland the ſame advantages which they confer on the people of England. The third of Edward the IVth, which declares certain " Mer-
" chandiſes not lawful to be brought
" ready wrought into England, has
" this proviſo, that all wares and
" chaffres made and wrought in the
" land of Ireland or Wales, may be
" brought and ſold in this realm of
" England, *as they were wont*, before
" the making of this ſtatute, this act

" or

" or ſtatute notwithſtanding." The firſt of Henry VIIth enacts, That no Gaſcoign or Guien wines be brought in but by Engliſh, *Iriſh*, and Welchmen, and by their ſhips.

The 4th of that king enacts, " that " no perſon of whatſoever degree con- " vey or bring into this realm, Ire- " land, Wales, Calais, or Berwick, " any manner of wines or Tholouſe " wood, but in ſhips owned by the " king or ſome of his ſubjects of his " realm of England, *Ireland*, Wales, " Calais, or Berwick, and the maſter " and mariners being Engliſhmen, " *Iriſhmen*, or Welchmen, or of Ber- " wick or Calais."

The firſt of Henry the VIIIth. chap. 5th, declares that " every Engliſhman " *and all other the King*'s ſubjects may " enter

" enter the goods of another Engliſh-
" man, or the king's ſubjects, in any
" port in England, Ireland, &c."

The 23d of this king confirms the before mentioned ſtatute of Henry the VIIth. reſpecting wines and wood, and in the 5th and 6th of Edward the VIth. it is repealed.

The 8th of Elizabeth, chap. 3d. inflicts a penalty upon carrying out of England, Wales, or *Ireland*, over ſea, any rams, lambs, or ſheep alive. The 43d of this reign prohibits the ſtretching woollen cloths within her Majeſty's realm of England, or the dominions of the ſame.

The 2d of James the Iſt. forbids to employ in hatmaking any perſon born out of his Majeſty's realms and dominions

nions of England, Scotland, and *Ireland.*

Another act of the ſame year permits, under certain reſtrictions, any perſons, *being ſubjects of the King's Majeſty*, to tranſport corn in any ſhip whereof any Engliſh-born *ſubject* ſhall be the owner. The act of the third of this king, chap. 6th, for enabling all his Majeſty's loving ſubjects of England and Wales to trade freely into the dominions of Spain, Portugal, and France, has a preamble ſo expreſſive of the ſenſe parliament had of the common right of the king's ſubjects to a free trade, and abhorrence of a monoply, that I ſhall recite it at full length, " Whereas divers merchants have of " late obtained from the king, under " the great ſeal of England, a large " charter of incorporation for them

" and

" and their company to trade into the
" dominions of Spain and Portugal,
" and are moſt earneſt ſuitors to obtain
" the like for France, whereby none
" but themſelves and ſuch as they ſhall
" think fit ſhall take benefit of the ſaid
" charter, diſabling thereby all others
" his Majeſty's loving ſubjects *of this*
" *realm of England and Wales*, who
" ought *indifferently* to enjoy all the
" benefits of this moſt happy peace,
" *and alſo debarring them from that free*
" *enlargement of common traffic into*
" *thoſe dominions which others his Ma-*
" *jeſty's ſubjects of this realm of Scot-*
" *land and Ireland do enjoy.*"

Theſe, together with thoſe which I beforementioned, are the only laws reſpecting trade that I find to have been made in England before the reſtoration, and it is moſt evident from the extracts which

which I have given, that the legiſlatures which enacted them clearly held the inhabitants of Ireland to be intitled to all the privileges and immunities enjoyed by the inhabitants of England; but as commerce now became a principal object of the attention of the Engliſh parliament, a ſpirit of monopoly and excluſion of others, which a love of trade never fails to generate, diſcovers itſelf in all their future meaſures, and Ireland is no longer conſidered as a part of England, and incorporated with it, but it is henceforth regarded as the competitor inſtead of the ſiſter of England, and all its commercial advantages viewed with partial and jealous eyes. Other cauſes, beſides the ſelfiſh nature of trade, were not wanting to create a breach in the union of the two iſlands; the vanity of Henry the VIIIth. in taking the title of King of Ireland,

Ireland, and by conſequence erecting the iſland into a kingdom, had no ſmall ſhare in the miſchief; for this fatal name of kingdom, whenever it was ſounded in the ears of a native of England, could not but excite in him ideas of a diſtinct ſtate or dominion, having intereſts and views peculiar to itſelf, ſeparate from, and incompatible with the views and intereſts of England. The repugnance which the Roman Catholics of Ireland had always ſhewn ſince the Reformation to the Engliſh government, and their then late horrid maſſacre of thoſe they deemed the deſcendants of Engliſhmen, muſt alſo have greatly ſerved to ſtrengthen this jealouſy in the people of England, and the number of ſettlers which had flowed into Ulſter from Scotland, whoſe principles Charles and his loyal parliament equally diſliked, was no

ſmall

ſmall inducement for them to countenance by law the popular prejudices.

What happened to Wales in the reign of Henry IVth. gives weight to theſe ſuggeſtions; for the people of that principality having ſupported Earl Mortimer's title, Henry and his party in revenge procured ſeveral acts of parliament to be paſſed, by which Wales and its inhabitants were ſeparated and cut off from England and the rights of Engliſhmen, nor was that country reunited to England, and its inhabitants reſtored to their privileges, until the reign of Henry the VIIIth. The caſe of Scotland in later times affords another proof of the miſchievous effects of prejudice and jealouſy; for immediately after the reſtoration of Charles, that free trade and communication with

England and its dominions, which had been allowed to Scotland from the acceſſion of James, was abridged, and Scotland and Scotiſhmen laid under the ſame diſabilities in reſpect to trade as foreigners. It was however the happineſs of Wales to have no diſtinct government of its own, to continue the jealouſy of England by its ridiculous attempts at independency; and Scotland, by relinquiſhing her ſeparate legiſlature, and abſorbing it in that of England, by that one act, the wiſeſt ſhe ever did, removed for ever all the bars and obſtructions to her intercourſe and commerce with England and its dominions, and became intitled to all the benefits, rights, and immunities, that the power, wealth, and wiſdom of England had for many ages been acquiring.

Should

Should my countrymen refuſe to profit of theſe examples, from an unwillingneſs to abſorb their local legiſlature in that by which the whole empire is governed, ſtill there are other means they may employ to recover their former ſituation.

FINIS.

G.R.II. BIBLIOTH. MUS.